

REMARKS

Examiner Interview Summary

On August 5, 2005, the Examiner contacted Applicants' representative, Cory Claassen, via telephone requesting that a proposed amendment be submitted. During the Examiner interview independent claims 43 and 65 and dependent claim 66 were discussed. The Examiner indicated that dependent claim 66 contained allowable subject matter. Applicants propose amending independent claims 43, 58, and 65 as recited above. Independent claims now include similar subject matter as allowable dependent claim 66.

Statement of Common Ownership

In the first Office Action issued May 9, 2005, the Examiner presented 102 rejections based on Tuganov et al. (US 6,330,253). If the Examiner intends to present 103 rejections based on Tuganov '253, Applicants would like to take this opportunity to notify the Examiner of common ownership.

The present patent application and Patent No. 6,330,253 to Tuganov et al., were, at the time the invention of the present application was made, owned by or subject to an obligation of assignment to New Focus, Inc. of San Jose, California. The present application and Tuganov '253 have both since been assigned to Intel Corp., of Santa Clara, California.

"Subject matter developed by another person, which qualifies as prior art only under one or more of subsection (e), (f), and (g) of section 102 of this title, **shall not preclude patentability under this section** where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." 35 U.S.C. § 103(c) (emphasis added).

Since both Tuganov '253 and the instant application were at the time the present invention was made, both owned by or under an obligation of assignment to New Focus, Inc. of San Jose, California, pursuant to 35 U.S.C. § 103(c), Tuganov '253 may not be relied upon to preclude patentability under § 103(a).

CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

Respectfully submitted,

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Date: _____

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